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10/807,762	03/24/2004	Mark W. Triplett	04-258	4274
36910 7590 08/26/2008 MBHB/TRADING TECHNOLOGIES 300 SOUTH WACKER DRIVE SUITE 3200 CHICAGO, IL 60606				
EXAMINER				
VEZERIS, JAMES A				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/807,762

**Applicant(s)**

TRIPLETT, MARK W.

**Examiner**

JAMES A. VEZERIS

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date 2/27/2008, 5/21/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **Final Action**

### **Response to Applicant's Arguments**

1. Applicant argues that Kemp does not disclose "temporarily holding the order request, continuously determining whether the specific (event) is detected, and sending the order when the event is detected." Brackets indicate what examiner believes was intended to be said. The examiner respectfully disagrees. In column 11 Lines 34-54 Kemp teaches a Bid limit order which only places a bid once a condition is reached. The system therefore, sends an order only when an event is detected.
2. Both Claim objections and Specifications objections have been overcome.
3. To expedite prosecution of this patent examiner recommends the following actions:
  - 1) Adding the limitations of claim 7 to claim 1.
  - 2) Defining the term "Rate in trades" as the quantity of a tradeable object not the price of the tradeable object.
  - 3) Filing a terminal disclaimer overcoming a possible double patenting rejection based on US Application No. 11/416398.

### **Claim Rejections- 35 U.S.C. 102(e)**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-7, 14-19, and 24 are rejected under 35 U.S.C. 102(a) as being anticipated by US Patent 6,938,011 to Kemp II et al. (Hereinafter "Kemp").

**Regarding Claim 1.**

Kemp teaches a method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Column 10 lines 20-45)

temporarily holding the order request such that the order request is not sent to a matching engine at the electronic exchange until a specific event is detected; (See Fig 6, Columns 10-11 lines 34-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11 lines 34-4)

continuously determining whether the specific event is detected; and (See Fig 6, Columns 10-11 lines 34-4)

automatically releasing the order request to the matching engine at the electronic exchange when a the specific event is detected. (See Fig 6, Columns 10-11 lines 34-4)

**Regarding Claim 2.**

Kemp further teaches displaying an order entry region comprising a plurality of locations for receiving the command to send the order request, each location

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corresponding to a price level along a common static price axis. (See Fig 6, Columns 10-11 lines 20-4) Examiner notes that depending upon the price selected in Kemp a different request will be sent.

**Regarding Claim 3.**

Kemp further teaches in response to a selection of a particular location of the order entry region by a single action of a user input device, setting a plurality of parameters for the order request relating to the tradeable object and sending the order request to a gateway. (See Fig 6, Columns 10-11 lines 20-4)

**Regarding Claim 4.**

Kemp further teaches displaying a second plurality of locations in the order entry region for receiving the command to send an order to an electronic exchange, each location corresponding to a price level along the common static price axis. (See Fig 6, Columns 10-11 lines 20-4) Examiner notes the first location was for purchasing and the second location was for selling.

**Regarding Claim 5.**

Kemp further teaches the order entry region is displayed on a screen of a user terminal. (See Fig 3)

**Regarding Claim 6.**

Kemp further teaches :

dynamically displaying a first indicator in one of a plurality of locations in a bid display region, each location in the bid display region corresponding to a price level along a common static price axis, the first indicator representing quantity associated

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with at least one order to buy the tradeable object at the highest bid price currently available in the market; and (See Fig 3) BidQty

dynamically displaying a second indicator in one of a plurality of locations in an ask display region, each location in the ask display region corresponding to a price level along the common static price axis, the second indicator representing quantity associated with at least one order to sell the tradeable object at the lowest ask price currently available in the market. (See Fig 3) AskQty

**Regarding Claim 7.**

Kemp further teaches the specific event represents a rate in trades occurring to buy or sell the tradeable object. (See Fig 6, Columns 10-11 lines 49-4) Examiner notes rate is defined as last sold price.

**Regarding Claim 14.**

Kemp further teaches:

receiving the order request at an intermediary device in communication with a user terminal at which the order request was initiated and further in communication with the electronic exchange, wherein the intermediary device automatically releases the order request to the matching engine at the electronic exchange when the specific event is detected. (See Fig 6, Columns 10-11 lines 34-4)

**Regarding Claim 15.**

Kemp further teaches:

receiving the order request at a computer device at the electronic exchange, the computer device in communication with a user terminal at which the order request was

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initiated, wherein the computer device automatically releases the order request to the matching engine at the electronic exchange when the specific event is detected. (See Fig 6, Columns 10-11 lines 34-4)

**Regarding Claim 16.**

Kemp further teaches:

receiving the order request at a computer device that is remote to the electronic exchange and that is in communication with the electronic exchange, wherein the computer device automatically releases the order request to the matching engine at the electronic exchange when the specific event is detected. (See Fig 6, Columns 10-11 lines 34-4)

**Regarding Claim 17.**

Kemp teaches a method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Columns 10-11 lines 34-4)

refraining from sending the order request to a matching engine at the electronic exchange until an event is detected based on market data; (See Fig 6, Columns 10-11 lines 34-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11 lines 34-4)

continuously determining whether the specific event is detected; and(See Fig 6,

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Columns 10-11 lines 34-4)

automatically forwarding the order request to the matching engine at the electronic exchange when the specific event is detected in the received market data.

(See Fig 6, Columns 10-11 lines 34-4)

**Regarding Claim 18.**

Kemp further teaches the event represents a specific rate of trades occurring at the particular price level. (See Fig 6, Columns 10-11 lines 49-4) Examiner notes rate is defined as last sold price.

**Regarding Claim 19.**

Kemp further teaches the event represents a preprogrammed occurrence. (See Fig 6, Columns 10-11 lines 49-4)

**Regarding Claim 24.**

Kemp further teaches a computer readable medium having stored therein instructions to execute a method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Columns 10-11 lines 34-4)

refraining from sending the order request to a matching engine at the electronic exchange until an event is detected based on market data; (See Fig 6, Columns 10-11 lines 34-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11



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lines 34-4)

continuously determining whether the specific event is detected; and (See Fig 6, Columns 10-11 lines 34-4)

automatically forwarding the order request to the matching engine at the electronic exchange when the specific event is detected in the received market data. (See Fig 6, Columns 10-11 lines 34-4)

### **Claim Rejections- 35 U.S.C. 103(a)**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-13, 20-22, and 25-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Kemp in further view of US Patent 5787402 to Potter et al. (Hereinafter "Potter").

### **Regarding Claim 8.**

Kemp fails to further teach displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. However, Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a first type of order indicator representing the order request at a first time, wherein the first time represents

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a time before the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 9.**

Kemp fails to further teach displaying a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected, and wherein the first type of order indicator is no longer displayed. However, Potter does. (See Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 10.**

Kemp fails to further teach modifying the first type of order indicator into a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. However, Potter does. (See Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include modifying the first type of order indicator representing the order request at a second time, wherein the second time

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represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 11.**

Kemp fails to further teach displaying a second type of order indicator representing a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. However, Potter does. (See Fig. 17) Examiner notes that the indicator reads released, making it distinguishable from Fig. 16.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a second type of order indicator representing a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 12.**

Kemp fails to further teach the first type of order indicator indicates a quantity of the order request and if the order request is a buy or sell order request. However, Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include the first type of order indicator indicates a quantity of the order request if the order request is a buy or sell order

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request. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 13.**

Kemp fails to further teach the first type of order indicator indicates the specific event. (See Fig. 16) Examiner notes the buy and sell areas.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include the first type of order indicator indicates the specific event There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 20.**

Kemp fails to further teach displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. However, Potter does. (See Fig. 16)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a first type of order indicator representing the order request at a first time, wherein the first time represents a time before the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 21.**

Kemp fails to further teach displaying a second type of order indicator representing the order request at a second time, wherein the second time represents the time after the event is detected. However, Potter does. (See Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a second type of order indicator representing the order request at a second time, wherein the second time represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 22.**

Kemp fails to further teach displaying a first type of order indicator that represents a virtual order and a second type of order indicator that represents a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. However, Potter does. (See Fig. 16 and Fig. 17) Examiner notes the virtual order is being read as an order that is sitting on the market waiting to be executed, while the real order is the executed order.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to include displaying a first type of order indicator that represents a virtual order and a second type of order indicator that represents a real order, wherein the first type of order indicator is visually distinguishable from the second type of order indicator. There is motivation to do so

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because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 25.**

A method for sending an order to an electronic exchange, the method comprising:

receiving a command representing an order request to buy or sell a quantity of a tradeable object at a particular price; (See Fig 6, Columns 10-11 lines 34-4)

displaying at a user terminal a first type of indicator representing the order request; (See Fig 16)

refraining from sending the order request to a matching engine at the electronic exchange until an event is detected; (See Fig 6, Columns 10-11 lines 34-4)

receiving market data comprising quantity and price information relating to the tradeable object being traded at the electronic exchange; (See Fig 6, Columns 10-11 lines 34-4)

continuously monitoring the received market data to determine if the event is detected; (See Fig 6, Columns 10-11 lines 34-4)

forwarding the order request to the matching engine at the electronic exchange when the event is detected in the received market data; (See Fig 6, Columns 10-11 lines 34-4)

displaying at a user terminal a second type of indicator representing the order request, wherein the first type of indicator represents the order request at a first time which represents a time before the event is detected and the second type of indicator

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represents the order request at a second time which represents a time after the event is detected.

Kemp fails to further teach displaying at a user terminal a second type of indicator representing the order request, wherein the first type of indicator represents the order request at a first time which represents a time before the event is detected and the second type of indicator represents the order request at a second time which represents a time after the event is detected. However, Potter does. (See Fig. 16 and Fig. 17)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to display at a user terminal a second type of indicator representing the order request, wherein the first type of indicator represents the order request at a first time which represents a time before the event is detected and the second type of indicator represents the order request at a second time which represents a time after the event is detected. There is motivation to do so because a user of the present invention would be able to track orders, allowing them to make more informed decisions.

**Regarding Claim 26.**

Kemp further teaches the event represents a preprogrammed occurrence. (See Fig 6, Columns 10-11 lines 49-4)

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kemp in view of US Patent 6532460 to Amanat et al. (Hereinafter "Amanat")

**Regarding Claim 23.**

Kemp fails to teach deleting the order request from an exchange order book at the matching engine. However, Amanat does. (See Fig. 2; Col 7 lines 14-39)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify the display of Kemp to delete the order request from an exchange order book at the matching engine. There is motivation to do so because it allows a trader to get out of a position if they believe it will result in the loss of money.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. VEZERIS whose telephone number is (571)270-1580. The examiner can normally be reached on Monday-alt. Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAMES A VEZERIS/  
Examiner, Art Unit 3693

8/18/2008

/Stefanos Karmis/  
Primary Examiner, Art Unit 3693